



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

April 5, 2013

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

Michael & Tracy Devany
200 Owaissa Court, SE
Vienna, VA 22180-5928

RE: Temporary Change Authorization No. CS4-144891CL@1 – change from point of diversion to point of withdrawal

Dear Mr. & Mrs. Devany:

On December 12, 2012, Michael & Tracy Devany submitted an application seeking a Temporary Change Authorization to change from a point of diversion to a point of withdrawal for Surface Water Claim No. S4-14489CL@1. The Water Right Claim, originally filed by William R. Hottell on May 1, 1974, asserts a priority date of October 14, 1913. Water Right Claim No. 144891 originally asserted the right to divert 0.50 cubic feet per second (cfs) and 100 acre-feet per year (ac-ft/yr) for the purpose of irrigation of 25 acres. On December 9, 2010, the Department of Ecology approved a claim amendment and issued an order correcting the instantaneous quantity from 0.50 cfs to 5.0 cfs. Table 1 is a summary of the existing Water Right Claim and proposed change.

Attributes of Claim No. 14489 and Proposed Change

Table 1 - Summaries of Existing Attributes and Proposed Changes

<i>Attributes</i>	<i>Documented</i>	<i>Proposed</i>
Name	William R. Hottell	Michael & Tracy Devany
Priority Date	October 14, 1913	December 12, 2012
Date of application for change		
Instantaneous Quantity	5.0 cfs	200 gpm
Annual Quantity	100 acre-feet per year	No change
Source	Twisp River	A well
Point of Diversion/Withdrawal	396 feet west and 90 feet south from the center of the NW ¼ of Section 9, being within the SW ¼ NW ¼ of Section 9, T.33 N., R. 21 E.W.M.	1320 feet south and 2310 feet east from the northeast corner of Section 9, being within the NE ¼ NW ¼ of Section 9, T. 33 N., R. 21 E.W.M.
Purpose of Use	Irrigation	No change
Period of Use	April 15 to September 15	No Change
Place of Use	That portion of the SE ¼ NW ¼, NE ¼ NW ¼, SW ¼ NE ¼ and the NW ¼ lying South of the Twisp River within Section 9, T. 33 N., R. 21 E.W.M.	No Change



In addition to this temporary change application, the Devany's applied for a permanent change from a point of diversion to a point of withdrawal on August 15, 2012.

Aerial photographs indicate that 25 acres of the claimed place of use for Water Right Claim No. S4-144891 have consistently been irrigated. The property has historically been irrigated in hay and pasture. Water is diverted on the property through an open ditch and was not initially measured. In 2006 a headgate and new fish screen were installed. A 4.0 cfs ramp flume was installed in 2000 to provide increased accuracy in the diversion of water under the water right claim. In the spring enough water is diverted that the flume and fish screen are overtaken with water indicating that at least 5.0 cfs is diverted when water is available.

The applicant will be utilizing a new irrigation system including a pump capable of withdrawing 200 gpm and K-line irrigation system operating at 70% efficiency. The Washington State Irrigation Guide (WIG) can be used to estimate the amount of water need for specific crops using information on that crop at specific agricultural/weather stations. The WIG indicates that the crop need for pasture/turf at the Winthrop station is 1.55 acre-feet per acre. With a 70% efficiency of the new system that would bring the total crop requirement to 2.21 acre-feet per acre ($1.55 / 0.7 = 2.21$).

Public Notice

Public notice of the application was published in the Methow Valley News on February 20, and 27, 2013. No letters of protest or comments were received during the 30-day protest period.

Public Interest

The change will result in an increase in flows by approximately 4.5 cfs in the Twisp River for approximately 1/3 of a mile.

Same Source of Water

The new well will be located approximately at a point 1320 feet south and 2320 feet east from the northwest corner of Section 9, being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 9, T. 33 N., R. 21 E.W.M. The new withdrawal will be designed to pump approximately 200 gallons per minute (gpm). The withdrawal would utilize the unconsolidated aquifer that is largely recharged by the surface water exchange. The aquifer is dependent on surface water exchange with the Twisp River and since the well will draw from this aquifer it can be considered the same source.

Impairment

The change represents a downstream move and will result in less water being diverted from the Twisp River to irrigate the same 25 acres within the place of use. There are no other points of diversion on the Twisp River between the original point of diversion and the proposed point of withdrawal.

There are no wells in the vicinity that represent a qualifying works, fully penetrating the extent of the aquifer.

[A full description of the hydrogeologic analysis can be found in the associated Technical Reference Report – *Hydrogeologic analysis of a Seasonal Change Application by Michael and Tracy Devany, file number CS4-144891* (March 28, 2013) by Stuart P. Luttrell.]

SEPA

This project is categorically exempt under SEPA.

Conclusions

Under Water Right Claim No. 14489, 5.0 cfs and 100 acre-feet per acer for the irrigation of 100 acres of pasture/hay are eligible for change. Approval of the new well under CS4-144891CL@1 is from the same source and will not result in impairment of existing right or be detrimental to the public interest.

Recommendations

I recommend that CS4-144891CL@1 should be approved for three years as follows:

Point of Withdrawal

A well located 1320 feet south and 2320 feet east from the northwest corner of Section 9, being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 9, T. 33 N., R. 21 E.W.M.

Place of Use

That Portion of the SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ and the NW $\frac{1}{4}$ lying South of the Twisp river within Section 9, T. 33 N., R. 21 E.W.M.

Quantities

200 gpm and 55.25 acre-feet per acre for the irrigation of 25 acres from April 15 to September 15.

This TEMPORARY CHANGE AUTHORIZATION is subject to the following conditions:

- 1) This Temporary Authorization shall remain in effect for three (3) years.
- 2) Violation of any of the terms and/or conditions of this Temporary Change Authorization will result in immediate termination, issuance of Administrative Orders to Cease and Desist may also subject the violator to civil penalties.
- 3) Irrigation of any lands in excess of 25 acres under this Temporary Change Authorization for the 2010 irrigation season will constitute an enlargement of the right and this authorization shall be immediately terminated.
- 4) The Department of Ecology assumes no liability for the purchase and/or construction of any permanent facilities in conjunction with this Temporary Change Authorization. Applicants for temporary change should not construe that this change will result in the granting of a permanent change of water right.
- 5) The issuance of this Temporary Change Authorization does not convey a right of access to or other right to use land, which you do not legally possess. Obtainment of such a right is a private matter between the applicant and owner of that land.
- 6) The applicant and operator of the system under this Temporary Change Authorization shall:
 - Have a copy of this Temporary Change Authorization available on-site.
 - Be aware of the parameters and provisions and operate accordingly.
 - Provide said copy as evidence of this authorization upon request by Department of Ecology staff.

- 7) All wells constructed in the state shall meet the "Minimum Standards for the Construction and Maintenance of Wells" (WAC 173-160) and "Water Well Construction" (RCW 18.104). In general, wells shall be located at least 100 feet from sources of contamination and at least 1,000 feet of the boundary of a solid waste landfill. Any well which is unusable, abandoned, or is an environmental, safety, or public health hazard shall be decommissioned.
- 8) The construction of the well must terminate at or above the boundary of the water table sedimentary aquifer and the underlying bedrock unit. The well may not be drilled into the bedrock and must be constructed to withdraw water only from the water table sedimentary aquifer.
- 9) An approved measuring device shall be installed and maintained for the source(s) identified herein in accordance with the rule "Requirements for Measuring and Reporting Water Use", Chapter 173-173 WAC. Water use data for each Court Claim on the place of use shall be recorded weekly and shall be submitted to Ecology by January 31, 2011.
- 10) The rule above describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition Ecology for modifications to some of the requirements. Installation, operation and maintenance requirements are enclosed or available from Ecology as a document entitled "Water Measurement Device Installation and Operation Requirements".
- 11) At a minimum, the following information shall be included with each submittal of water use data: owner, contact name if different, mailing address, daytime phone number, WRIA, Permit or Certificate No., source name, annual quantity used including units, maximum rate of diversion including units, period of use, monthly meter readings including units, and peak flow including units for each month. In the future, the Department of Ecology may require additional parameters to be reported or more frequent reporting.
- 12) The Department of Ecology prefers web based data entry, but does accept hard copies. Ecology will provide forms and electronic data entry information.
- 13) Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the records of water use that are kept to meet the above conditions, and to inspect at reasonable times any measuring device used to meet the above conditions, but only to the extent otherwise allowed by law.
- 14) **No water right in perpetuity will result from this Temporary Change Authorization.**
- 15) This Temporary Change Authorization shall in no way excuse the permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations including those administered by other programs of the Department of Ecology.

YOUR RIGHT TO APPEAL

You have a right to appeal this decision to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this decision. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do the following within 30 days of the date of receipt of this decision:

- File your appeal and a copy of this decision with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this decision on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW, Ste 301 Tumwater WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia WA 98504-0903

For additional information visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>

To find laws and agency rules visit the Washington State Legislature Website: <http://www.leg.wa.gov/CodeReviser>

If you have further questions or concerns, please call Scott Turner, Department of Ecology, Water Resources Program at 509-454-7106.

Sincerely,



Mark Kemner, LHG
Section Manager
Water Resources Program

MK:ST:ba/130307

Enclosures: *Fish Screening Requirements*
Water Measuring Requirements
Your Right To Be Heard

By Certified Mail: 7009 2250 0004 4950 9130

cc: Philip Rigdon, Yakama Nation
Lois Trevin, Colville Confederated Tribe
Jeri Timm, Trout Unlimited